

**Department of Personnel Administration  
Memorandum**

**TO: Personnel Management Liaisons (PML)**

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| <b>SUBJECT:</b><br>Partisan Political Materials | <b>REFERENCE NUMBER:</b><br>2005-034 |
| <b>DATE ISSUED:</b><br>9/29/05                  | <b>SUPERSEDES:</b>                   |

This memorandum should be forwarded to:

**Labor Relations Officers**

**FROM:** Department of Personnel Administration  
Labor Relations Division

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**UPDATE REGARDING SEIU, LOCAL 1000, CSEA'S COURT ACTION  
RE: DISTRIBUTION OF "PARTISAN POLITICAL MATERIALS" ON STATE  
PROPERTY**

As you may know, on October 21, 2004, SEIU, Local 1000, CSEA, filed a "Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief" against the Department of Personnel Administration (DPA). *SEIU, Local 1000, CSEA v. DPA* (2004) Sacramento Superior Court No. 04CS01420.

In that case, the Union sought to declare that the denial of SEIU's attempts to distribute materials on State property that advocate for the defeat or passage of a ballot initiative is an "unconstitutional prior restraint on the freedom of speech guaranteed in the California Constitution."

In her decision dated April 28, 2005, Sacramento Superior Court Judge Gail D. Ohanesian, dismissed SEIU's lawsuit without leave to amend, reasoning that the issue of whether or not the Union's materials were prohibited under the provisions of the Memorandums of Understanding (MOUs) was a question that was required to be addressed in the grievance and arbitration procedure.

On May 31, 2005, the Union appealed Judge Ohanesian's ruling to the Third District Court of Appeal. The Union's opening brief is due October 3, 2005, and DPA's reply brief is due November 2, 2005.

As soon as a decision is rendered in that case, we will let you know the outcome.

### **MOU PROHIBITIONS AGAINST THE DISTRIBUTION/POSTING OF PARTISAN POLITICAL MATERIALS**

As a reminder, there is specific language in **all** of the State MOUs that govern the distribution of and/or posting of materials on site at State departments and agencies. The MOUs provide that the Unions will not post and/or distribute “partisan political” materials on State owned or leased property.

To reiterate the position DPA has taken for over a year, materials that contain a position in support of or against a referendum, proposition, initiative or a candidate constitutes “partisan political” information. Therefore, pursuant to the clear and unambiguous language of the parties’ MOUs, such materials cannot be distributed and/or posted in State owned or leased facilities, including but not limited to inside the building, within lobbies, lunchrooms or break rooms and such materials may not be posted on bulletin boards, cubicle walls etc.

Please remember that partisan political materials may be distributed **outside** of State facilities, for example on a sidewalk or in a public area such as a park.

### **DPA’S RECOMMENDATIONS**

DPA is asking that all departments, whether their facilities are leased or owned, take the following actions if partisan political materials are distributed or posted at the work site:

1. Obtain, a copy of the material that is being distributed/posted;
2. Determine if the material contains partisan political information;
3. Ask for the name of the individual who is engaging in the prohibited conduct;
4. Ask by whom they are employed;
5. If a state employee, ask if they are on work time;
6. Since such materials are prohibited by the contract, you may ask them to cease their activities;
7. If they do not agree to cease, you may ask them to take the materials down and or stop distributing the information;
8. If they do not cease or leave, you should follow your standard procedure for dealing with such situations where there is unauthorized access to your facilities. (**DO NOT ENGAGE IN ANY PHYSICAL CONFRONTATION**);
9. If the individual refuses to remove prohibited materials after being requested to do so, the materials in question should be removed by departmental staff;
10. Document the date and time of the distribution or posting, as well as the removal of the materials; and
11. Report such activity to the assigned DPA Labor Relations Officer for the affected bargaining unit.

/s/David A. Gilb

David A. Gilb  
Chief